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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/744,634 | 01/26/2001 | Helmut Jorke | 3926.018 | 2938 |

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EXAMINER

ESPLIN, DAVID B

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,634

Applicant(s)

JORKE, HELMUT

Examiner

D. Ben Esplin

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 9-12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-8 and 13 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

The claims are in condition for allowance except for the presence of claims 4 and 9-12 to an invention non-elected with traverse in Paper No. 8.

In the office action dated 5/15/02 Examiner *restricted* the claims, arguing that the two sets of claims, 1-3 and 5-8 (Group I), and 4, and 9-12 (Group II), did not contain a single inventive feature over the prior art. Consequently, Applicant was required to *elect* a single group for examination. Which Applicant did, *electing* Group I with traverse. Applicant argued that the splitting and combining of light was the inventive feature contained in both groups of claims. However, in the Office Action dated 8/20/02 Examiner presented art showing that the splitting of light, as claimed in originally examined claims 1-12, was not novel, and thus could not be a considered an inventive feature.

Applicant further relied upon the fact that no lack of unity requirement was made during PCT stage examination. Perhaps this is because only a projector, and not a recorder was claimed in the PCT stage. The subject matter of a recorder was not added to the claims until it had been filed as a national stage application in the U.S. and claim numbers 9-12 were added and claim 4 was amended (Pre-Amdt. A filed 1/26/01, and Pre-Amdt. B filed 1/15/02). So this argument is moot. If the PCT stage application claims included both a projector and recorder, then a lack of unity requirement might have been made.

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Should Applicant wish to amend the claims of Group II so as to include an inventive feature of Group I in order to overcome the restriction/election requirement made by Examiner, it is strongly suggested that Applicant point out in the description sections enabling the claimed subject matter.

Specification

The specification amendments filed 28 January 2003 have not been entered because it does not conform to 37 CFR 1.125(b) because: The clean version of the changes attempts to amend paragraphs 00034, 00045, and 00061. However, the original specification does not include numbered paragraphs.

Allowable Subject Matter

Claims 1-3, 5-8, and 13 are allowed.

The following is an examiner's statement of reasons for allowance: A projecting device including a first and second partial light bundles with different chromaticity, as defined by Applicant in description and arguments, along with the rest of the structure and function of these claims, is not found in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Ben Esplin whose telephone number is (703) 305-4022. The examiner can normally be reached on Mon.-Fri. (8am-4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell E. Adams can be reached on (703) 308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


DBE

February 11, 2003


RUSSELL ADAMS

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800